

Approved: M. Shin
CHRISTY SLAVIK
Assistant United States Attorney

Before: THE HONORABLE SARAH NETBURN
United States Magistrate Judge
Southern District of New York

20 MAG 8458

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: COMPLAINT
UNITED STATES OF AMERICA :
: Violations of
- v. - : 18 U.S.C. §§ 844
: and 2
COREY SMITH, :
ELAINE CARBERRY, : COUNTY OF OFFENSE:
: NEW YORK
Defendants. :
- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

WEN JIANG YAN, being duly sworn, deposes and says that he is a Special Agent in the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") assigned to the New York City Arson and Explosion Task Force, and charges as follows:

COUNT ONE

(Conspiracy to Commit Arson)

1. On or about July 15, 2020, in the Southern District of New York and elsewhere, COREY SMITH and ELAINE CARBERRY, the defendants, and others known and unknown, combined, conspired, confederated, and agreed, together and with each other, to commit arson, in violation of Title 18, United States Code, Section 844(f).

2. It was a part and object of the conspiracy that COREY SMITH and ELAINE CARBERRY, the defendants, and others known and unknown, would and did maliciously damage and destroy, and attempt to damage and destroy, by means of fire and an explosive, a vehicle, in whole and in part owned and possessed by an institution and organization receiving Federal financial assistance, in violation of Title 18, United States Code, Section 844(f).

(Title 18, United States Code, Sections 844(n) and 2.)

COUNT TWO
(Arson)

3. On or about July 15, 2020, in the Southern District of New York and elsewhere, COREY SMITH and ELAINE CARBERRY, the defendants, maliciously damaged and destroyed, and attempted to damage and destroy, by means of fire and an explosive, a vehicle, in whole and in part owned and possessed by an institution and organization receiving Federal financial assistance, to wit, SMITH and CARBERRY used ignitable liquid to set fire to a marked NYPD vehicle in New York, New York.

(Title 18, United States Code, Sections 844(f) and 2.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

4. I am a Special Agent and Certified Explosives Specialist with the ATF assigned to the New York City Arson and Explosion Task Force. I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in this investigation, my conversations with other law enforcement officials, and my examination of documents and other records, including law enforcement reports and video surveillance. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported in this Complaint, they are reported in substance and in part, except where otherwise indicated.

5. Based on my review of video recordings, I have learned that movements and actions of individuals later identified as COREY SMITH and ELAINE CARBERRY, the defendants, on or about July 15, 2020, were captured by a video camera at and around 12th Street and University Place, New York, New York ("the premises") and other cameras in the vicinity of the premises. After reviewing those video recordings, I have learned, in substance and in part:

a. At approximately 4:35 a.m., a group of individuals including SMITH and CARBERRY walked south on University Place from 13th Street towards 12th Street. SMITH held a glass bottle, which appeared to be a Patron tequila bottle, as he walked.

b. At approximately 4:37 a.m., surveillance footage shows movement on the northwest corner of 12th Street and University Place near a marked New York City Police Department ("NYPD") Homeless Outreach Unit van (the "NYPD Van"). Around that time, flames appeared to ignite at or around the NYPD Van.

c. Seconds after the flames ignited, CARBERRY walked west on 12th Street, away from the NYPD Van. SMITH followed CARBERRY. At approximately 4:38 a.m., SMITH handed CARBERRY an object that appeared to be a bottle, which CARBERRY put into her purse.

d. At approximately 4:39 a.m., SMITH and CARBERRY rounded the corner of 12th Street and 5th Avenue, on to 5th Avenue. Seconds after SMITH and CARBERRY rounded the corner, SMITH and CARBERRY went back towards 12th Street.

e. At approximately 4:39 a.m., CARBERRY gave SMITH a bottle from her purse. SMITH proceeded east on 12th Street, toward the NYPD Van. CARBERRY followed at a distance.

f. At approximately 4:41 a.m., surveillance footage shows movement on the northwest corner of 12th Street and University Place near the NYPD Van. A larger fire appeared to ignite at or around the NYPD Van.

g. At approximately 4:42 a.m., CARBERRY walked away from the NYPD Van, west on 12th Street towards 5th Avenue. SMITH ran away from the NYPD Van, following CARBERRY west on 12th Street.

h. At approximately 4:42 a.m., SMITH again handed CARBERRY an object that appeared to be a bottle, which CARBERRY put in her purse.

6. Based on my conversations with other law enforcement officers and my review of video surveillance and of documents and reports prepared by the Fire Department of the City of New York ("FDNY") and the NYPD, I have learned, in substance and in part, that:

a. On or about July 15, 2020, members of the NYPD observed the NYPD Van on fire. The NYPD attempted to put out the fire and called FDNY.

b. When the FDNY arrived at the scene, the FDNY observed the NYPD Van, which was still on fire. The FDNY ultimately extinguished the fire.

c. The NYPD Crime Scene Unit recovered a Patron tequila bottle from inside the NYPD Van.

d. An analysis of the materials found in the NYPD Van confirmed the presence of an accelerant.

e. The FDNY confirmed that the fire was deliberately set as an act of arson.

7. Based on my conversations with other law enforcement officers, and my review of law enforcement records and public records, I have learned the following:

a. Still shots of the surveillance footage described in Paragraph 5 above were distributed among law enforcement. A law enforcement officer working undercover ("Officer-1") identified COREY SMITH and ELAINE CARBERRY, the defendants, as the individuals in the surveillance footage based on Officer-1's previous interactions with SMITH and CARBERRY.

b. Following Officer-1's identification of SMITH and CARBERRY, law enforcement compared the surveillance footage from the night of July 15, 2020, described in Paragraph 5 above, with photographs of SMITH and CARBERRY contained in law enforcement databases, a photograph of CARBERRY from the Department of Motor Vehicles ("DMV"), and photographs of SMITH obtained from social media accounts in SMITH's name. I believe that the appearances of SMITH and CARBERRY in these photographs match the appearance of the individuals captured in the surveillance footage described above.

8. Based on my conversations with other law enforcement officers, I know that the NYPD shared excerpts of the surveillance footage with local television news. After seeing the surveillance footage on the local news, an anonymous individual ("Anonymous Source-1") called the NYPD Crimestoppers hotline, an anonymous tip hotline run by the NYPD, and informed the NYPD that Anonymous Source-1 recognized the female in the surveillance footage as a resident of a particular Brooklyn address (the "Brooklyn Address"). According to DMV records, CARBERRY lives at the Brooklyn Address.


9. Based on my training and experience, I have learned that the NYPD is an organization that receives financial assistance from the federal government.

WHEREFORE, deponent respectfully requests that warrants issue for the arrests of COREY SMITH and ELAINE CARBERRY, the defendants, and that they be arrested, and imprisoned or bailed, as the case may be.

/s authorized electronic signature

Special Agent Wen Jiang Yan
Bureau of Alcohol, Tobacco, Firearms, &
Explosives

Sworn to before me this
11th day of August, 2020



THE HONORABLE SARAH NETBURN
United States Magistrate Judge
Southern District of New York